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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,378	04/12/2004	Adam Cain	863.0019.U1(US)	3369
29683 7590 03/05/2009 HARRINGTON & SMITH, PC 4 RESEARCH DRIVE, Suite 202 SHELTON, CT 06484-6212				
EXAMINER NGUYEN, THU HA T				
ART UNIT		PAPER NUMBER		
2453				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/823,378

Applicant(s)

CAIN ET AL.

Examiner

THU HA T. NGUYEN

Art Unit

2453

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2-10, 12-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date 02/04/09
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims **1, 3-10, 12-16** are presented for examination.
2. Claims 1, 7, 9, 13-14 and 16 are currently amended.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 08, 2008 has been entered.

Response to Arguments

4. Applicant's arguments filed on December 08, 2008 have been fully considered but they are not persuasive because of the following reasons:

5. Applicant argues that the Win does not teach an automated security scan of the second network device to determine at least one of a hardware or software capability of the network device.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Moreover, the examiner submits that Win does teach the feature of performing an automated security scan of a second network device by a first network device to determine a capability of the second network device as shown in line 8, col. 8, line 23-col. 9, line 40, col. 10, line 64-col. 12.

6. Applicant argues that Wright does not teach or suggest the feature of performing an automated security scan of the second network device to determine at least one of a hardware or software capability of the network device. In response to applicant's argument, the examiner submits that Wright does teach performing an automated security scan of the second network device to determine at least one of a hardware or software capability of the network device as shown in paragraphs [0013-0014], [00078].

7. In addition, as the independent claims 9, 14 and 16 recited similar feature of claim 1 as discussed above. Therefore, the rejection to independent claims 1, 9, 14 and 16 are sustained.

8. Applicants still have failed to identify specific claim limitations that would define a patentable distinction over cited prior arts. Therefore, the examiner asserts that cited prior art teaches or suggests the subject matter broadly recited in independent claims 1, 9, 14 and 16. Claims 3-8, 10, 12-13, and 15 are also rejected at least by virtue of their dependency on independent claims and by other reasons set forth in this office action below. Accordingly, claims 1, 3-10, 12-16 are rejected.

Art Unit: 2453

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-14 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Win et al.** (hereinafter Win) U.S. Patent No. **6,453,353**, in view of **Wright et al.** (hereinafter Wright) U.S. Pub. No. **2004/0123153**.

11. As to claims 1, 14 and 16, Win teaches a method, comprising: performing an automated security scan of a second network device by a first network device to determine a capability of the second network device (line 8, col. 8, line 23-col. 9, line 40, col. 10, line 64-col. 12); generating an attribute certificate the second network device based in part on the attribute (col. 7, line 34-col. 8, line 46, col. 10, line 34-col. 11, line 9); storing the attribute certificate including the attribute on a device other than the second network device (col. 6, line 20-65, col. 10, lines 14-67); and responsive to a verified authentication request from the second network device for access to a resource over a network, determining whether the stored attribute certificate for the second network device is valid, where if the stored attribute certificate is determined valid, authorizing access to the resource over the network based, in part, on the attribute associated with the attribute certificate, or else denying access to the resource

Art Unit: 2453

for the second network device (col. 9, line 14-col. 10, line 67, col.11, line 43-col. 12, line 8).

Win teaches the feature of determining an attribute for the second network device based on, in part, a capability of users (abstract, figure 1, col. 6, lines 58-65, col. 11, line 42-col. 12, line 8). However, Win does not explicitly teach determining at least one of a hardware or software capability of the second network and determining an attribute based, in part, on the determined capability.

Wright teaches the feature of determining at least one of a hardware or software capability of the second network ([0013-0014], [00078]) and determining an attribute based, in part, on the determined capability ([0066-0067], [0078]-[0121]).

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to modify the teachings of Wright into Win to include the feature of determining at least one of a hardware or software capability of the second network and determining an attribute based, in part, on the determined capability because it would have provided different levels of security protection for different location and/or security features are highly desirable for network device.

12. As to claim 3, Win teaches wherein the attribute is further determined based, in part, on a condition to be satisfied (figure 3, col. 8, lines 5-63).

Art Unit: 2453

13. As to claim 4, Win teaches wherein the attribute is further associated with a group of network devices (col. 13, lines 35-67).

14. As to claim 5, Win teaches wherein the attribute is further associated with a group of users (col. 13, lines 35-67).

15. As to claim 6, Win teaches, wherein the attribute certificate is generated by at least one of the first network device, an access server, and an attribute authority (figure 1).

16. As to claim 7, Win teaches wherein the attribute certificate is stored in an attribute repository (figure 1).

17. As to claim 8, Win teaches wherein the attribute certificate is provided to an access server through the use of at least one of a cookie, a program, and a manual upload (col. 10, line 41-col. 12, lines 8).

18. As to claim 9, Win teaches an apparatus, comprising: an interface configured to perform an automated security scan of a network device to determine a capability of the network device (col. 10, line 64-col. 12, line 8, col. 8, line 23-col. 9, line 40, col. 10, line 34-67); a memory configured to store the attribute certificate including the attribute on a device other than the network device (col. 7, line 34-col. 8, line 46, col. 10, line 34-col. 11, line 9); responsive to

Art Unit: 2453

a verified authentication request from the network device for access to a resource over a network, the processor further configured to determine whether the stored attribute certificate is valid, where if the stored attribute certificate is determined valid, the processor is configured to authorize access to the resource over the network based, in part, on the attribute associated with the attribute certificate, or else to deny access to the resource for the network device (col. 9, line 14-col. 10, line 67, col.11, line 43-col. 12, line 8).

Win teaches the processor configured to generate an attribute certificate, wherein the attribute certificate is based, in part, on a capability of users (abstract, figure 1, col. 6, lines 58-65, col. 11, line 42-col. 12, line 8). However, Win does not explicitly teach determining at least one of a hardware or software capability of the network device; a processor configured to determine an attribute for the network device and based, in part on the determined capability; and the processor further configured to generate an attribute certificate for the network device based, in part, on the attribute.

Wright teaches determining at least one of a hardware or software capability of the network device ([0013-0014], [00078]); a processor configured to determine an attribute for the network device and based, in part on the determined capability; and the processor further configured to generate an attribute certificate based, in part, on the attribute ([0066-0067], [0078]-[0121]).

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of Wright into Win to include the feature of determining an attribute based on the determined

Art Unit: 2453

capability of a network device because it would have provided different levels of security protection for different location and/or security features are highly desirable for network device.

19. As to claim 10, Win teaches wherein the processor is further configured to generate the attribute certificate based on a condition to be satisfied (figure 3, col. 8, lines 5-63).

20. As to claim 12, Win teaches wherein the processor is further configured to generate the attribute certificate based on the automated security scan of the other network device (abstract, col. 5, line 55-col. 6, line 10, col. 10, lines 34-67).

21. As to claim 13, Win teaches wherein the interface is further configured to send the attribute certificate to an attribute repository to be stored (figure 1).

22. As to claim 15, **Win** teaches wherein the means to perform an automated scan comprises an interface; and the means for determining, generating, storing, and means responsive comprises a central processing unit coupled to the interface and further coupled to a memory (col. 7, line 34-col. 8, line 46, col. 10, line 34-col. 11, line 9).

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Ha Nguyen, whose telephone number is (571) 272-3989. The examiner can normally be reached Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne, can be reached at (571) 272-4001.

The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/THUHA T. NGUYEN/

Primary Examiner, Art Unit 2453

